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PATENT

ATTORNEY DOCKET NO.: 044525-5001-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Philip E. SILKOFF et al. )  
)  
Application No.: 08/827,703 )  
)  
Filed: April 9, 1997 )  
)  
For: METHOD AND APPARATUS FOR THE  
MEASUREMENT OF EXHALED NITRIC  
OXIDE IN HUMANS

Assistant Commissioner for Patents  
**BOX MISSING PARTS**  
Washington, D.C. 20231

**RESPONSE TO NOTICE TO FILE MISSING PARTS**

1. This replies to the Notice to File Missing parts of Application (PTO-1533) mailed August 1, 1997.

A copy of the Notice To File Missing Parts Of Application-Filing Date Granted (Form PTO-1533) is enclosed.

2. Declaration Or Oath

☒ [X] No declaration or oath was filed. Enclosed is the original Combined Declaration and Power of Attorney

☐ [ ] The specification attached to the declaration is a copy of the specification and any amendments thereto which were filed in the PTO to obtain the filing date.

☐ [ ] The declaration or oath which was filed was determined to be defective. A new original Combined Declaration and Power of Attorney is attached.

## 3. English Translation of Non-English Language Papers

- ☐ Submitted herewith is a verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the PTO.

Also enclosed is the Verification of Translation Document

## 4. Small Entity Statement(s)

- ☐ Verified Statement(s) that this is a filing by a small entity  
☐ is attached  
☐ was filed on \_\_\_\_\_.

## 5. Fee Calculation

Basic Fee:				
Patent Application	-	\$790.00 [Small Entity \$395.00]		\$ 790.00
Design Application	-	\$330.00 [Small Entity \$165.00]		
	Number Filed	Number Extra	at a Rate of	
Total Claims	17 - 20 =		\$22.00 each =	+
Independent Claims	2 - 3 =		\$82.00 each =	+
Multiple dependent claim(s), if any			\$270.00	+
Missing Parts Surcharge Fee			\$130.00	+ 130.00
SUB-TOTAL =				\$ 920.00
Reduction by 1/2 for filing by a small entity				- \$
SUB-TOTAL =				\$ 920.00
Fee For Application Filed With A Non-English Specification (37 CFR 1.17(k) and 1.52(d))			\$130.00	+
Fee For Processing and retention of application (37 CFR 1.21(l) and 1.53(d))			\$130.00	+
TOTAL FILING FEE =				\$ 920.00

## 6. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

- ☐ Applicant petitions for an extension of time, the fees for which are set out in 37 CFR 1.17(a)-(d), for the total number of months checked below:

<u>Total months requested</u>	<u>Fee for extension</u>	<u>[fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 390.00	\$195.00
<input type="checkbox"/> three months	\$ 930.00	\$460.00
<input type="checkbox"/> four months	\$1,470.00	\$735.00

Extension of time fee due with this request: \$ \_\_\_\_\_

If an additional extension of time is required, please consider this a Petition therefor.

- ☒ Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

## 7. Fee Payment

The total fee due is:	Completion Fees	<u>\$920.00</u>
	Extension Fees	<u>\$ _____</u>
	Total Fee Due	<u>\$920.00</u>

- ☒ Enclosed is a check in the amount of \$ 920.00 representing the total fee due.

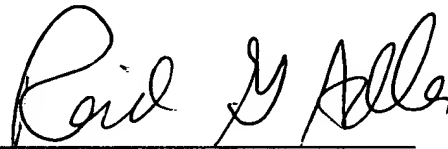
**Except** for issue fees payable under 37 C.F.R. §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R §1.16 and §1.17 which may be required, or credit any overpayment to Deposit Account No. 13-4520.

8. Additional papers enclosed.

- ☐ Certified Copy of Japanese Application No. 8-302737
- ☐ Information Disclosure Statement
- ☐ Form PTO-1449
- ☐ Citations
- ☐ Declaration of Biological Deposit
- ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**



Reid G. Adler

Reg. No. 30,988

Dated: October 1, 1997

**MORGAN, LEWIS & BOCKIUS LLP**

**1800 M Street, N.W.**

**Washington, D.C. 20036**

**(202) 467-7000**



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
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08/827,703 04/09/97 SILKOFF

P 044525-5001-

0232/0801

MORGAN LEWIS & BOCKIUS  
1800 M STREET NW  
WASHINGTON DC 20036

NOT ASSIGNED

DATE MAILED: 3311

08/01/97

**NOTICE TO FILE MISSING PARTS OF APPLICATION**  
**Filing Date Granted**

An Application Number and Filing Date have been assigned to this application. However, the items indicated below are missing. The required items and fees identified below must be timely submitted ALONG WITH THE PAYMENT OF A SURCHARGE for items 1 and 3-6 only of \$ 770.00 for a ☒ large entity ☐ small entity in compliance with 37 CFR 1.27. The surcharge is set forth in 37 CFR 1.16(e). Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay any fees required above to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

If all required items on this form are filed within the period set above, the total amount owed by applicant as a ☒ large entity ☐ small entity (verified statement filed), is \$ \_\_\_\_\_.

☒ 1. The statutory basic filing fee is:

- ☒ missing.  
☐ insufficient.

Applicant must submit \$ 770.00 to complete the basic filing fee and/or file a verified small entity statement claiming such status (37 CFR 1.27).

☐ 2. Additional claim fees of \$ \_\_\_\_\_, including any multiple dependent claim fees, are required.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

☒ 3. The oath or declaration:

- ☒ is missing.  
☐ does not cover the newly submitted items.  
☐ does not identify the application to which it applies.  
☐ does not include the city and state or foreign country of applicant's residence.

An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date is required.

☐ 4. The signature(s) to the oath or declaration is/are:

- ☐ missing.  
☐ by a person other than inventor or person qualified under 37 CFR 1.42, 1.43, or 1.47.

A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

☐ 5. The signature of the following joint inventor(s) is missing from the oath or declaration:

An oath or declaration listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.

☐ 6. A \$ \_\_\_\_\_ processing fee is required since your check was returned without payment (37 CFR 1.101(m)).

☐ 7. Your filing receipt was mailed in error because your check was returned without payment.

☐ 8. The application does not comply with the Sequence Rules.

See attached "Notice to Comply with Sequence Rules 37 CFR 1.821-1.825."

☐ 9. OTHER:

Direct the response and any questions about this notice to "Attention: Box Missing Parts."

**A copy of this notice MUST be returned with the response.**

Customer Service Center  
Initial Patent Examination Division (703) 308-1202

10/15/1997 JTIIPETT 0000023 08827703 790.00 OP 130.00 OP  
01JFC:101  
02JFC:105